

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Debtor,

IRVING H. PICARD, Trustee for the Liquidation of  
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

SAUL B. KATZ, et al.,

Defendants.

Adv. Pro. No. 08-01789 (BRL)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-05287 (BRL)

11 Civ. 03605 (JSR) (HBP)

**DECLARATION OF REGINA GRIFFIN IN OPPOSITION TO DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT**

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for the Substantively Consolidated SIPA  
Liquidation of Bernard L. Madoff  
Investment Securities LLC and Bernard L.  
Madoff*

I, **REGINA GRIFFIN**, declare pursuant to 28 U.S.C. § 1746, that the following is true:

1. I am an attorney with the firm of Baker & Hostetler LLP, counsel to Irving H. Picard, Esq., Trustee (“Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC and Bernard L. Madoff (“Madoff”). I submit this declaration in Support of the Opposition to the Defendants’ Motion for Summary Judgment pursuant to Federal Rule of Civil Procedure 56. I am personally familiar with the facts set forth herein.

2. In my role as counsel to the Trustee, I was involved in the Trustee’s discovery efforts pursuant to Rules 26, 30 and 45 of the Federal Rules of Civil Procedure.

3. On December 30, 2011, Noreen Harrington, former Chief Investment Officer of Sterling Stamos, testified that in 2003, she and her colleague Ashok Chachra performed due diligence analyses into Merkin’s and Madoff’s funds. Attached as **Exhibit A** is a true and correct copy of excerpts from the Deposition Transcript of Ms. Harrington, dated December 30, 2011.

4. The Trustee noticed the deposition of a Sterling Stamos corporate representative, pursuant to Fed. R. Civ. P. 30(b)(6), to determine, among other things, the location, retention and/or destruction of Ms. Harrington’s files, including the due diligence files on Merkin and Madoff referenced in Ms. Harrington’s testimony. Attached as **Exhibit B** is a true and correct copy of the Rule 30(b)(6) Subpoena and Notice of Rule 30(b)(6) Deposition to Sterling Stamos, dated January 2, 2012.

5. On January 12, 2012, the Trustee deposed Sterling Stamos’ designated corporate witness, Chief Financial Officer Kevin Barcelona. Mr. Barcelona testified that Sterling Stamos kept “records literally going back to day one on all of our funds.” Attached as **Exhibit C** is a true and correct copy of excerpts from the Deposition Transcript of Kevin Barcelona, dated

January 12, 2012.

6. Despite our repeated demands for the production of Sterling Stamos' Merkin/Madoff files, and the analyses that both Ms. Harrington and Mr. Chachra described in their testimony, these documents have not been produced and appear to be missing. Attached as **Exhibit D** is a true and correct copy of a letter from Fernando A. Bohorquez, Jr. to Sterling Stamos' counsel Tammy Bieber, dated January 23, 2012, again requesting the Merkin/Madoff due diligence files. *See also* Exhibit C at 189- 97.

7. Attached as **Exhibit E** is a response letter from Ms. Bieber, dated January 25, 2012.

Dated: New York, New York  
February 9, 2012

  
Regina Griffin